

REMARKS

Claims 1-6 are pending in the present application. Claims 1-6 have been amended for clarity. No claims have been added. Claim 1 is the only independent claim.

Claims 1-3, 5 and 6 stand finally rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 6,151,588 to Tozzoli *et al.* (“Tozzoli”) in view of *Retail Decision and I4 Commerce Form Alliance to Provide the Bill Me Later Payment Option for LiveProcessor Users*, Business Wire (“Business Wire”). Claim 4 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Tozzoli in view of Business Wire in further view of U.S. Patent No. 6,539,360 to Kadaba (“Kadaba”).

First, Applicant respectfully submits that the claims patentable define over the cited references because the cited references do not teach or suggest the features recited in the claims as a whole including the now explicitly recited step of **determining** a billing amount that is based on order reception information and delivery state information that ***includes a moving state of being in the vicinity of an intersection, and in the vicinity of a building.***

Applicant submits Tozzoli’s system does not describe a granularity of information to include a moving state of being in the vicinity of an intersection, and in the vicinity of a building. Business wire does not address a moving state at all. Kadaba’s system processes packages designated for special handling and notifies an appropriate party as to whether special handling has been applied to these designated packages (Kadaba, 1:7-10). Kadaba does not address a moving state, as claimed, either.

The final office action does not state that Tozzoli or Business wire teach this feature. Rather, the office action states that this feature, as previously claimed, was considered to be non-functional descriptive material and related to intended use of the **system**. The office action argues that the previously claimed system is the same regardless of what type of delivery state information it is **storing**.

Here, the claims have been amended to explicitly recite, as part of a **method step**, determining a billing amount ***that is based on*** order reception information and delivery state information that ***includes a moving state of being in the vicinity of an intersection, and in the vicinity of a building.*** This step does not represent non-functional descriptive material because the determining is functionally based on the nature of the delivery state information.

Second, the cited references fail to teach or suggest receiving information that a payment in accordance with a billing amount is completed and avoiding suffering a loss due to duplicate payments *using payment on delivery*, as explicitly claimed.

An order receiver ships a commodity to a user of the receiver side terminal *before confirming payment* with the receiver side terminal, and a processing means *that receives information that a payment in accordance with a billing amount is completed* and avoids suffering a loss due to duplicate payments *using payment on delivery*.

The office action acknowledges that Tozzili fails to disclose an order receiver then ships the commodity to a user of the receiver side terminal before confirming payment with the receiver side terminal. Likewise, Applicant submits that Tozzili does not disclose avoiding suffering a loss due to duplicate payments using payment on delivery.

Business Wire's system enables a "Bill Me Later" processing system. However, business wire does not disclose avoiding suffering a loss due to duplicate payments *using payment on delivery*. In fact, the Bill Me Later system does not contemplate avoiding duplicate payments using payment on delivery at all. Applicant submits that Kadaba's special handling processing system is not relevant to this feature at all.

The final office action indicates that because the Tozzoli system processes payments, it is "fully capable" of receiving information on whether an amount has been paid. However, Applicant has amended the claims to explicitly recite this feature. Merely "being capable" of performing an explicitly claimed feature is not teaching it for purposes of a proper rejection.

The final office action states that "it is common on delivery slips to have a section for Amount Paid and Amount Owed." However, the office action does not cite any art to support this position in the context of the rejection. To the extent this statement is official notice, the Applicant respectfully traverses.

The final office action states that under the Bill Me Later option, the system would not collect payment on delivery. The claims, as now amended, recite receiving information that a payment in accordance with a billing amount is completed to avoid suffering a loss due to duplicate payments *when using payment on deliver*. Accordingly, Applicant respectfully submits that Bill Me Later does not teach or suggest this feature.

Accordingly, for at least the foregoing reasons, Applicant respectfully submits that the claims patentably define over the cited art. Applicant respectfully submits that the present

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application is in condition for allowance and requests reconsideration of the application and a Notice of Allowance for claims 1-6.

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